

TRULINCS 76060066 - MILCHIN, MICHAEL - Unit: FAI-E-A

FROM: 76060066
TO: Milchin, Maya
SUBJECT: supplement to motion for 3582
DATE: 08/31/2023 12:53:31 PM

United States of America
v.
Michael Milchin

Case#17-284-1

Supplement to motion for 3582 compassionate release filed in July 2023.

On August 24, 2023 the USSC voted to allow retroactive sentence reductions and authorized Judges to reduce sentence for eligible incarcerated persons. Part B, subpart 1 of amendment 821 creates a new chapter four guideline at 4C1.1 by decreasing by two the offense levels for defendants who did not receive any criminal history points and whose instant offense did not involve specific aggravating factors. Judge Reeves added, "these prospective changes to the criminal history rules made by the commission in April reflect evidence-based policy determinations that apply with equal force to previously sentence individuals. Applying these changes retroactively will increase fairness in sentencing.

As in the original motion Mr. Milchin stated why he qualifies for the two level reduction and the government conceded that Milchin in fact does qualify for the reduction. The government had stated that to receive this reduction a 3582 (c)(2) was not the right vehicle for a inmate to receive a reduction when in fact 3582(c)(2) states exactly why it is the correct vehicle for a sentence reduction.

Section 3582(c)(2) States:

in the case of a defendant who has been sentence tot a term of imprisonment based on a sentencing range that has subsequently been lowered by the sentencing commission pursuant to 28 U.S.C.994(o), upon motion of the defendant or the director of the bureau of prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3353(a) to the extent that they are applicable, if such a reduction is consistent with the applicable policy statements issued by the sentencing commission.

Another key here is the supreme court's decision in pepper which held that post-sentencing rehabilitation efforts can have a major impact on the 3553(a) factors. In US v Brown, case 21-7752, 2023 (4th Cir. Aug 16, 2023) Citing Pepper v. US, the circuit ruled that such "post-sentencing rehabilitation minimized the need for the sentence imposed to protect the public from further crimes of the defendant, and provides the most up-to-date picture of brown's history and characteristics, which also favors a sentence reduction".

United States v. Harrison, 96-cr-116-ELH(d. Md. July 25, 2023)

United States v. Victor Thomas 3:01Cr05 Lexis 3657 2023 (W.D. PA.)

United States v. Reginald Reaves Lexis 59708 Cr.91-570-09 (E.D. PA 2023)

United States v. Andre Colman lexis 1512 Cr.05-295-2 (S.D. PA 2021)

United States v. Diaz Lexis 55411 Cr.13-cr-0437 (E.D. NY)

United States v. Thomas Reynolds Lexis 82483 99-cr-520 (E.D. NY)

United States v. Anthony Russo Lexis 199664 92-cr-351, 90-cr-1063 (E.D. NY)

United States v. Diom Nelson Lexis 84554 10-cr-820 (E.D. NY)

In The eastern district of new York US v. Odilon Martinez-Rojas, 2023 Lexis 132245 (E.D. N.Y. July 31, 2023) the defendant pled guilty pursuant to plea agreement to racketeering and sex trafficking crimes in violation of 18 USC 1962(c) and 1591(a) with the conditions of his incarceration during the pandemic combined with his age and rehabilitation, warrant a sentencing reduction, these circumstances provide an "extraordinary and compelling" reason to reduce the defendants sentence by 47 months.


And Finally a new and concerning reason for Milchin sentence reduction to time served that the centers for disease control and prevention said on Thursday that it was tracking a new, highly mutated lineage of the virus that causes covid-19. The strain named BA.2.86 has been detected in the us, Europe and Israel, the CDC said. Early analysis indicated that the new variant "will have equal or greater escape than XBB.1.5 from antibodies elicited by pre-omicron and first-generation omicron variants" Jesse Bloom a virologist at the Fred Hutchinson Cancer center said.

With the new two level reduction, Mr. Milchin post sentence rehabilitation with over 20 classes completed and a 2 year apprentice where he helped numerous inmates receive there GED, work history in the BOP as a tutor, laundry employee, Cook, and now as a UNICOR worker at Danbury. As well as the documented health issues of his mother fighting colon cancer

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and weeks away from a surgery that will leave her dependent on someone to care for her 24 hours a day while she recovers and now the uptick in covid-19 that makes this emergency request for reduction of sentence even more urgent due to the fact that Covid-19 poses a grave danger to mrs.milchin while she is immune compromised due to colon cancer if mr.milchin were to get the reduction later than sooner he may not be able to help his mother if the outbreak once again arrives in the BOP or the halfway house. Covid-19 also made mr.Milchins incarceration during the pandemic harder than it was intended with lockdowns and no opportunity to see his family in 2020,2021,2022. With the new two level reduction becoming retroactive all the other reasons listed is why mr.milchin is requesting the court grant his emergency reduction to time served. Mr.Milchin has less than 56 months remaining with over 400 home confinement days earned thru FSA programming and a minimum reduction of 32 month to a maximum reduction of 60 months for the two level reduction , Milchin requests that the court use the retroactive two level reduction as well as rehabilitation, work history in the BOP, FSA programming , no history of violence in or out of the prison system, Milchin being at a camp facility and having a low recidivism and pattern score showing he is not likely to reoffend to grant him a reduction of 56 months so he can go home to his family and take care of his ill mother. Mr.Milchin is willing to obey any restrictions the court is willing to put on him the main goal here it to allow mr.milchin to care for his mother during this hard time and with a threat of covid-19 outbreak looming again milchin requests the court grant this motion as soon as possible.

Michael Milchin 76060-066

 Date 8/30/23

Michael Milchin

76060-066

Federal Correctional Institute-Camp

PO BOX 420

Easton NJ 08320

SOUTH JERSEY NJ 080

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US court house

601 market St

Phila PA 19106

19106-1799A. Clerk of Courts

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